

New York Adoption Assistance- Who Do You Contact?

State Contact information

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Adoption Assistance- Who is Eligible?

A good place to start. Public adoption in New York is supervised and regulated by the Office of Children and Family Services (OCFS), Division of Development and Prevention Services, New York State Adoption Service. OCFS and Adoption links: www.ocfs.state.ny.us and www.ocfs.state.ny.us/adopt.

1. What specific factors or conditions does your state consider to determine that a child cannot be placed with adoptive parents without providing financial assistance? ("What is your state definition of special needs?")

A child with special needs is defined as a child who is *handicapped* or *hard to place* that has at least one of the following needs or circumstances that may be a barrier to placement or adoption without financial assistance:

Handicapped child means a child who possesses a specific physical, mental or emotional condition or disability of such severity or kind, which, in the opinion of the Office of Children and Family Services (OCFS) would constitute a significant obstacle to the child's adoption. Such conditions include, but are not limited to:

- Any medical or dental condition which will require repeated or frequent hospitalization, treatment or follow-up care;
- Any physical handicap, by reason of physical defect or deformity, whether congenital or acquired by accident injury or disease, which makes or may be expected to make a child totally or partially incapacitated for education or for remunerative occupation, as described in sections 1002 and 4001 of the Education Law; or makes or may be expected to make a child handicapped, as described in section 2581 of the Public health Law;
- Any substantial disfigurement, such as the loss or deformation of facial features, torso or extremities; or
- A diagnosed personality or behavioral problem, psychiatric disorder, serious intellectual incapacity or brain damage which seriously affects the child's ability to relate to his peers and/or authority figures, including mental retardation or developmental disability.

Hard-to-place child means a child, other than a handicapped child:

- Who has not been placed for adoption within six months from the date his or her guardianship and custody were committed to the social services official or the voluntary authorized agency; or
- Who has not been placed for adoption within six months from the date a previous placement terminated and the child was returned to the care of the social services official or voluntary authorized agency; or
- Who meets any of the following conditions, which the Office of Children and Family Services(OCFS) has identified as constituting a significant obstacle to a child's adoption, notwithstanding that the child has been in the guardianship and custody of the social services official or the voluntary authorized agency for less than six months:

1. The child is one of a group of two siblings (including half-siblings) who are free for adoption and it is considered necessary that the group be placed together and

- at least one of the children is five years old or older; or
 - at least one of the children is a member of a minority group which is substantially over represented in New York State foster care in relation to the percentage of that group to the State's total population; or
 - at least one of the children is otherwise eligible for adoption assistance in accordance with the provisions of this subdivision:
2. The child is the sibling or half-sibling of a child already adopted and it is considered necessary that such children be placed together and
 3. The child to be adopted is five years old or older; or
 4. The children is a member of a minority group which is substantially over represented in New York State foster care in relation to the percentage of that group to the State's total population; or
 5. The sibling or half sibling already adopted is eligible for adoption assistance or would have been eligible for adoption assistance if application had been made at the time of or prior to the adoption;
 6. The child is one of a group of three or more siblings (including half-siblings) who are free for adoption and it is considered necessary that the group be placed together or
 7. The child is eight years old or older and is a member of a minority group which is substantially over represented in foster care in relation to the percentage of that group to the State's total population; or
 8. The child is 10 years old or older;
 9. The child is hard to place with parents other than his/her foster parent(s) because he/she has been in care with the same foster parent(s) for 12 months or more prior to the signing of the adoption placement agreement by such foster parents and has developed a strong attachment to his/her foster parent(s) while in such care and separation from the foster parent(s) would adversely affect the child's development.

A child, for adoption assistance purposes in New York, is defined as:

- A person under the age of 21 whose guardianship and custody have been committed to a social services official or a voluntary authorized agency or whose guardianship or custody have been committed to a certified or approved foster parent prior to the child's 18th birthday.
- A person under the age of 21 whose care and custody have been transferred prior to their 18th birthday to a social services official or a voluntary authorized agency whose parents are deceased or one parent is deceased and the other parent is not legally entitled to be notified.

Note: Children must be legally free for adoption and in the guardianship and custody of a voluntary authorized agency or foster parent to be eligible for adoption assistance.

2. What are the eligibility criteria for your state-funded adoption assistance program?

In order to be eligible for state funded adoption assistance a child must be handicapped or hard to place as defined above. The effect of New York's definition of "child" is that the child must be in

the custody of a social services official or voluntary authorized agency or certified or approved foster parent(s).

3. What is the maximum amount a family may receive in non-recurring adoption expenses from your state? Adoptive parents can receive reimbursement of certain approved, "one-time" adoption expenses incurred in the process of finalizing a special needs adoption.

\$2,000.00 per child

4. Does your state enter into deferred adoption assistance agreements? In some states, adoptive parents can enter into an agreement in which they choose to defer the receipt of a Medicaid card, the monthly monetary payment, or both and can elect to receive the Medicaid card and/or monetary payment at another time.

New York does not offer deferred adoption assistance.

5. When may adoption assistance payments and benefits begin in your state?

Adoption assistance payments and benefits begin in New York at adoption finalization for the majority of children. Payments may begin earlier if the child was placed directly in the custody of a voluntary authorized agency by the birth parent(s).

6. How are changes made to the adoption assistance agreement in your state?

An adoptive parent may make a written request to the social services district in which they reside for a change in the adoption assistance agreement for any of the following reasons/conditions:

- Following **final approval** of an adoption assistance application by the Office of Children and Family Services (OCFS) New York State Adoption Service (NYSAS), and **prior to finalization** of the adoption, if there is a change in the child's medical condition and/or medical documentation verifying a change that warrants adoption assistance payment at a higher rate. Upon approval a new Agreement will replace the previous agreement.
- Following **finalization** of the adoption and the child is receiving adoption assistance, if there is a worsening of a condition or a pre-existing condition is identified which was not known by the adoptive parent(s) prior to finalization of the adoption. The Upgrade Amendment Request, for an increase in amount, is an "amended" Adoption Subsidy Agreement along with documentation of the child's disabilities and documentation that subsequent to the adoption being finalized, there had been a worsening of an adoption assistance-eligible condition which may now qualify the child for a higher adoption assistance level.
- Following **finalization** of the adoption where the subsidy was not previously requested or where a previous request was never approved. The Post Finalization Request must be based on medical documentation of a pre-existing condition unknown to the parent(s) at the time of finalization; that is diagnosed after finalization and a physician certifies that the condition or disability existed prior to the completion of the adoption.

- Following the change in the marital status of the adoptive parent(s) or a legal transfer of guardianship due to death of the adoptive parent(s) a Technical Amendment request may be submitted to change the name on the original Adoption Assistance Agreement.

Both the local social services official and OCFS must review all requests for approval. If a request for change to the adoption assistance agreement is denied, the adoptive parent can request a fair hearing. See Question #10 for information regarding the fair hearing process in New York.

Adoption Assistance- Post Adoption Services

7. What types of post adoption services are available in your state and how do I find out more about them?

Post adoption services in New York are provided by the local social services district or a voluntary authorized agency purchased by the local social services district in which the adoptive parents reside. These services may include:

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| 1. Information and referral | 4. Respite |
| 2. Support groups (parent/family) | 5. Therapeutic/crisis intervention |
| 3. Counseling | 6. Walk-in centers |

New York post adoption services link: www.ocfs.state.ny.us/adopt/post_adoption/. Adoptive parents can also contact the New York Parent Connection for additional information on post adoption services, phone: 800.345.KIDS (800.345.5437). Many organizations throughout New York City and New York State provide a variety of respite options. See New York's respite programs link: www.respitelocator.org/n5states.htm. New York has numerous adoption support organizations. See the following organizations for post adoption service information:

New York State Citizens Coalition for Children
Link: www.nysccc.org, or phone: 607.272.0034

Circle of Support
Link: www.circleofsupport.org, or phone: 877.676.9474

Note: Not all services may be available in all cases. Contact your local adoption assistance worker or local post adoption services contact for information regarding process, eligibility, availability and duration of services.

Adoption Assistance- Medical Assistance

8. What mental health services are provided by your state?

Mental health services for children and adolescents in New York State are administered by the New York State Office of Mental Health (OMH). OMH has a strong commitment to meeting the mental health needs of children and adolescents with serious emotional disturbance (SED). New York State's public mental health system serves approximately 140,000 children and adolescents each year. Most of this population receives services in community-based settings and a minority receives services in inpatient settings. Over the past two decades, the system of care for children and adolescents with SED has evolved gradually from a system based primarily on inpatient treatment to a system that provides treatment primarily in the community. This shift to a community-based system of care has been made possible by advances in psychotropic medications, emerging scientific evidence about the effectiveness of

home-based clinical interventions and the infusion of new resources into community-based mental health programs. It embodies the philosophy that the family, defined in its broadest sense, is the best place to raise children with SED so that they can stay at home and in school. OMH strives to provide services that are evidence-based and/or draw on state of the art research, (OMH Statewide Comprehensive Plan for Mental Health Services, 2004-2008).

Services are structured to be mobile, flexible and more responsive to children and adolescents with the highest needs. Each county, and in New York City one borough, has set up a Single Point of Access (SPOA) to improve coordination in the service delivery system by planning for children who are at risk of residential or out of home treatment. SPOAs include cross-systems collaboration and coordinate high risk services such as Residential Treatment Facilities, Home and Community Based Services Waiver, both Intensive and Supportive Case Management, Family Based Treatment, Community Residence and Teaching Family Homes. Family support is important to ensure that family voice and involvement is an integral part of services and that family needs are met.

Research demonstrates that a consistent evidence base exists in some but not all mental health services and is committed to identify and provide the most effective and science based services, where ever possible, in serving the needs of youth with SED. In the wake of the 9/11 terrorist attacks, OMH is working to integrate and develop systems of care sensitive to the trauma needs of children and their families. Other evidence-based services include school support projects, functional family therapy, common sense parenting ® and Home Based Crisis Intervention, in addition to many of those already listed above, (OMH Statewide Plan for Comprehensive Mental Health Services, 2004-2008).

New York State mental health services also include least restrictive to more intensive services ranging from clinic treatment and day treatment to inpatient services and partial hospital services. New York State believes in the systems of care approach to serving the needs of children and is involved in several cross-systems initiatives including the Coordinated Children's Services Initiative, and a Mental Health/Juvenile Justice collaborative. Services to treat juvenile sex offenders have also been developed.

For more information on specific services available in your community please see the OMH Statewide Comprehensive Plan for Mental Health Services, on the OMH web site at www.omh.state.ny.us. See also the Medicaid Helpline: 518-486-9057

Note: Not all services may be available in all cases. Contact your adoption assistance worker or the county Department of Mental Health information regarding process, eligibility, availability, and duration of services and the specific services available in the local community as services vary by locality.

9. Does your state provide additional finances or services for medical or therapeutic needs not covered under your state medical plan to children receiving adoption assistance?

New York does not provide additional finances or services for medical or therapeutic needs not covered under its state medical assistance state plan to children receiving adoption assistance.

Adoption Assistance- Fair Hearings

10. What is your state's process for applying for a fair hearing? A fair hearing is a legal, administrative procedure that provides a forum to address disagreements with agency decisions.

Adoptive parents have the right to request a fair hearing when a decision by the Office of Children and Family Services or local department of social services affects their child's adoption assistance benefits. Requests for a fair hearing in New York must be made in writing and addressed to:

Attn: Beth Mancini
Special Hearing Bureau
Office of Children and Family Services
52 Washington St.
Rensselaer, NY 12144

Any person affected by a decision of a social services official not to approve an adoption assistance payment, or by an inadequate or inappropriate payment amount, or the failure to issue a written disapproval of the completed agreement within thirty days after it was filed, may make a request to the OCFS for a fair hearing. The request must be made within sixty days after receipt of the written notice of disapproval of the adoption assistance or approval at a lower rate, or when more than thirty days have elapsed without a decision from the State Adoption Services. The following issues may be raised at such hearings:

- Whether the social services official has improperly denied an application for payments to be made, including the failure of the social services official to issue a determination of an application within 30 days of its filing;
- Whether the social services official has determined the amount of payment to be made in violation of the law; or
- Whether the social services official has improperly discontinued payments made in the agreement.

OCFS must uphold the denial if:

- The child for whom payments would be made is not a handicapped or hard-to-place child;
- or
- There is/was another approved adoptive parent(s) who is/was willing to accept the placement of the child without payment within 60 days of such denial and placement of the child with the other parent(s) would not be contrary to the best interests of the child.

A written notice of the hearing must be sent to the prospective adoptive parents and their representatives at least six working days prior to the scheduled date of the hearing. OCFS must make a decision within thirty days after the fair hearing. Federal policy states that an adoption assistance case may be Title IV-E eligible even if adoption assistance is not granted before finalization where an administrative hearing decision determines that an adoption assistance application was wrongfully denied.

Adoption Assistance- Web/Internet Information

11. What is your state Web address for general adoption information?

New York State general adoption link: www.ocfs.state.ny.us/adopt

12. What is your state Web address for adoption assistance information?

New York State adoption assistance link: www.ocfs.state.ny.us/adopt/subsidy.asp

13. What is your state Web address for state-specific medical assistance information for children?

New York State state-specific medical assistance link: www.health.state.ny.us/nysdoh/medicaid/medicaid.htm